

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Philip G. Reinhard	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	01 C 50477	DATE	1/8/2002
CASE TITLE	U.S.A. vs. WILLIAM SHEROD SIMPSON		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

## MOTION:

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## DOCKET ENTRY:

- (1) ☐ Filed motion of [ use listing in "Motion" box above.]
- (2) ☐ Brief in support of motion due \_\_\_\_\_.
- (3) ☐ Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.
- (4) ☐ Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (5) ☐ Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (6) ☐ Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.
- (7) ☐ Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.
- (8) ☐ [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.
- (9) ☐ This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
☐ FRCP4(m)   ☐ General Rule 21   ☐ FRCP41(a)(1)   ☐ FRCP41(a)(2).
- (10) ☒ [Other docket entry] For the reasons stated on the reverse Memorandum Opinion and Order, the section 2255 motion is summarily dismissed.

- (11) ☒ [For further detail see order on the reverse side of the original minute order.]

<input type="checkbox"/> No notices required, advised in open court. <input type="checkbox"/> No notices required. <input checked="" type="checkbox"/> Notices mailed by judge's staff. <input type="checkbox"/> Notified counsel by telephone. <input type="checkbox"/> Docketing to mail notices. <input type="checkbox"/> Mail AO 450 form. <input type="checkbox"/> Copy to judge/magistrate judge.	courtroom deputy's initials  /SEC	U.S. DISTRICT COURT 2002 JAN 10 AM 8:59 Date/time received in central Clerk's Office	number of notices	Document Number  3
			JAN 10 2002	
			date docketed	
			docketing deputy initials	
			date mailed notice	
		mailing deputy initials		

## ORDER

William Sherod Simpson, a federal prisoner serving a 157-month sentence for conspiracy to possess with intent to distribute cocaine entered upon his plea of guilty, has filed a motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255. His motion summarily raises three issues: (1) denial of effective assistance of counsel in that his plea of guilty was unlawfully induced, was involuntary, and not knowingly made as to the nature of the charges and consequences of the plea; (2) denial of effective assistance of counsel as the conviction was obtained by use of a coerced confession; and (3) Apprendi error as he was sentenced to a term beyond the maximum allowable as the amount of drugs was not charged in the indictment or found by the jury. No direct appeal has been taken. Although Judge William J. Hibbler presided at the guilty plea hearing which was taken in Chicago due to Simpson's medical condition, the case was assigned to this court and Simpson was sentenced by this court. Accordingly, under section 2255 the present motion is before this court as the sentencing judge.

In his written plea agreement, Simpson waived the right to appeal any sentence within the maximum provided by statute and his right to challenge his sentence by collateral attack under section 2255. While a defendant does not waive his right of review of the voluntariness of the plea, see United States v. Jeffries, 265 F.3d 556 (7<sup>th</sup> Cir. 2001), the transcript of the Rule 11 proceeding before Judge Hibbler shows compliance with the rule and Simpson's knowing and voluntary plea of guilty. Simpson's nonspecific claims do not support an involuntary plea or ineffective assistance of counsel concerning his guilty plea. Simpson's second claim of a coerced confession leading to his conviction, although couched under the ineffective assistance of counsel, is waived both by his guilty plea and by his plea agreement as there is no showing of ineffective assistance in connection with negotiating the agreement. See Mason v. United States, 211 F.3d 1065 (7<sup>th</sup> Cir. 2000). Finally, notwithstanding this same waiver respecting any sentencing error, there is no valid Apprendi issue as Simpson was charged by indictment with possession with intent to distribute approximately 1000 grams of cocaine and was sentenced to 157 months which is well within the statutory 40-year maximum for that quantity of cocaine, see 21 U.S.C. § 841(b)(1)(B)(ii)(I), and that amount and additional amounts of cocaine base as relevant conduct were admitted by Simpson in his plea agreement.

The section 2255 motion is summarily dismissed.